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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,381	11/08/2001	Steven S. Sommer	1954-360	5135

6449 7590 05/07/2003

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EXAMINER

HASHEMI, SHAR S

ART UNIT

PAPER NUMBER

1637

DATE MAILED: 05/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,381

Applicant(s)

SOMMER ET AL.

Examiner

Shar Hashemi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 and 18-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of Application, Amendments, and/or Claims

1. The Amendment was received and entered. Claims 16 and 17 were canceled by amendment. The claims pending in this application are **Claim(s) 1-15 and 18-26**.

Election/Restrictions

2. Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, select to a restriction requirement pursuant to 35 U.S.C. 121 and CFR 1.141 et seq. Nevertheless, to further aid the biotechnology industry to protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided sua sponte to partially waive the requirements of 37 CFR 1.141 et seq. and permit a reasonable number of such nucleotide sequences to be claimed in a single application. See examination of Patent Applications Containing Nucleotide Sequences, 1192 O.G. 68 (November 19, 1996).

Due to the ever expanding size of databases and the high burden on the Office resources in searching sequences, the Office has determined that **ONE** primer pair constitutes a reasonable number for examination purposes. Therefore, **applicant is required to select ONE PRIMER PAIR and identify the selected pair by SEQ. ID. NO. Identifier.** Examination will be restricted to only the one elected primer pair.

CONCLUSION

3. Claims 1-15 and 18-26 are subject to election for the reasons set forth above.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shar Hashemi whose telephone number is (703) 305-4840. The examiner can normally be reached Monday-Friday from 8:00AM – 5:00PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion, can be reached on (703) 308-1119.

The fax number for this examiner is (703) 746-9038. Before faxing any papers, please inform the examiner to avoid lost papers. Please note the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989). Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist, Tracey Johnson, whose telephone number is (703) 305-2982.

Examiner Hashemi



Ethan Whisenant
Primary Examiner


**ETHAN WHISENANT
PRIMARY EXAMINER**